

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

**DECLARATION OF MATTHEW B. GREENBLATT IN SUPPORT OF TRUSTEE'S
SECOND MOTION TO AFFIRM TRUSTEE'S DETERMINATIONS DENYING
CLAIMS OF CLAIMANTS WHO INVESTED IN CERTAIN FEEDER FUNDS AND
DID NOT HAVE BLMIS ACCOUNTS IN THEIR NAMES**

I, Matthew B. Greenblatt, hereby declare as follows:

1. I have more than 18 years of experience in accounting, auditing and litigation consulting services, including forensic accounting and fraud investigations. I am a Certified Public Accountant and a Certified Fraud Examiner, and am Certified in Financial Forensics. I am a member of the American Institute of Certified Public Accountants, the New York State Society of Certified Public Accountants and the Association of Certified Fraud Examiners, and an associate member of the Association of Certified Anti-Money Laundering Specialists. I have spoken on multiple panels and authored articles in the area of forensic accounting and investigations, and currently serve as an adjunct professor with New York University in its financial accounting certificate program. Additional information regarding my

personal and professional experience is included in my Curriculum Vitae annexed hereto as Exhibit 1.

2. I make this affidavit to transmit to the Court information relevant to the motion by Irving H. Picard, trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa et seq. (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff (“Madoff”) (collectively, “Debtor”), for an Order (a) upholding the Trustee’s disallowance of the claims listed on Exhibit 2 annexed to the supporting affidavit of David Sheehan (the “Sheehan Declaration”), (b) affirming the Trustee’s interpretation of “customer,” as such term is used at SIPA § 78III(2), and (c) overruling the objections to the Trustee’s determinations listed on Exhibit 2 and Exhibit 3 annexed to the Sheehan Declaration insofar as they object to the Trustee’s interpretation of the term “customer.”

3. On or about December 30, 2008, FTI was retained by the Trustee to examine, among other things, the financial affairs of BLMIS.

4. My colleagues at FTI and I have reviewed the books and records of BLMIS.

5. For purposes of the Second Feeder Fund Motion, the Trustee has selected twelve BLMIS accounts (the “Feeder Fund Accounts”) held by the Feeder Funds¹ or their agents, custodians or subsidiaries (collectively, the “Feeder Fund Parties”). There are twelve Feeder Funds associated with the twelve Feeder Fund Accounts, which are listed on Exhibit 1 to the Sheehan Declaration, submitted herewith.

¹ Capitalized terms used herein shall have the meanings ascribed to them in the Trustee’s Second Feeder Fund Motion.

6. FTI has reviewed the cash deposit and cash withdrawal activity in each of the Feeder Fund Accounts and that review revealed no evidence that any Objecting Claimants deposited funds or received funds directly from BLMIS.

7. Only the Feeder Fund Parties maintained the Feeder Fund Accounts with BLMIS.

8. The books and records of BLMIS reflect the amounts owing and owed between the Feeder Fund Parties and BLMIS.

9. Account opening documents were located for many of the Feeder Fund Accounts, although the books and records of BLMIS are incomplete in this regard. The Account Agreements, to the extent that they have been located, are included in the account maintenance files attached as exhibits to the Sheehan Declaration.

10. BLMIS account statements were prepared and addressed to the Feeder Fund Parties. Copies of the November 30, 2008 statements for each of the twelve Feeder Fund Accounts are attached as exhibits to the Sheehan Declaration.

11. A list of the 73 claims of the Objecting Claimants is attached to the Sheehan Declaration as Exhibits 2 and 3, listing their claim number and the docket number of their objections.


12. The twelve Feeder Fund Accounts were in the names of the Feeder Fund Parties, not the Objecting Claimants. *See* Sheehan Declaration, Exhibit 1. The names of the Objecting Claimants do not appear on the books and records of BLMIS vis-à-vis the twelve accounts that are included in the Second Feeder Fund Motion.² Accordingly,

² Some Objecting Claimants may have invested in other entities that invested with BLMIS through non-Feeder Fund Accounts, in addition to investing in a Feeder Fund that in turn, invested with BLMIS. The Trustee's Second Feeder Fund Motion only deals with the claims of Objecting Claimants insofar as they invested in a Feeder Fund or in one of the Original Feeder Funds.

the amounts that the Objecting Claimants allege are owed to them are not discernible from the books and records of BLMIS.

Pursuant to 28 U.S.C. § 1746, I hereby declare that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: New York, New York
June 25, 2013

A handwritten signature in black ink, appearing to read "Matthew B. Greenblatt", is written over a horizontal line.

/s/
Matthew B. Greenblatt, CPA/CFF, CFE
Senior Managing Director
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Certifications

Certified Public
Accountant

Certified Fraud Examiner

Certified in Financial
Forensics

Professional Affiliations

American Institute of
Certified Public
Accountants

New York State Society of
Certified Public
Accountants

Association of Certified
Fraud Examiners

Association of Certified
Anti-Money Laundering
Specialists

Education

B.S. in Accounting,
Lehigh University

Matthew Greenblatt is a senior managing director in the FTI Consulting Forensic and Litigation Consulting practice and is based in New York. Mr. Greenblatt has extensive experience in auditing and accounting matters; litigation consulting; forensic accounting and internal investigations; post-acquisition and shareholder disputes; anti-money laundering; and advising troubled companies.

Mr. Greenblatt has conducted multiple forensic investigations in connection with cases involving diversions of funds and fraudulent accounting activity by management and has been involved in several internal forensic investigations conducted on behalf of Audit Committees and/or Boards of Directors for both public and private companies.

Mr. Greenblatt has advised on cases involving partnership disputes; lost profits; breach of contract claims; and accountants' malpractice. Mr. Greenblatt has additional expertise with matters involving acquisitions and divestitures; antitrust; price fixing; arbitration and mediation; bankruptcy reorganization; claims management; contract disputes; damages; directors & officers related claims; due diligence; expert testimony; forensic investigations; fraud and fraudulent conveyance; intellectual property; patent infringement and trademark; liquidation; product liability; solvency and insolvency; trustee and examiner issues and valuation.

Mr. Greenblatt has spoken on multiple panels in the area of forensic accounting and investigations and is an adjunct professor; teaching the course *Prevention and Detection of Fraudulent Financial Reporting*; a required course within the Forensic Accounting Program of New York University's Finance; Law and Taxation Program of NYU's School of Continuing & Professional Studies. In addition, Mr. Greenblatt is a recurring panel member on the Practising Law Institute's annual program, *Basics of Accounting for Lawyers: What Every Practicing Lawyer Needs to Know*.

Prior to its acquisition by FTI Consulting, Mr. Greenblatt joined Kahn Consulting in June of 1998. Before that, Mr. Greenblatt was a Senior Auditor with Price Waterhouse's Audit and Business Advisory Services Group.

Mr. Greenblatt holds a B.S. in Accounting from Lehigh University. Mr. Greenblatt is a Certified Public Accountant and a Certified Fraud Examiner, and is Certified in Financial Forensics. Mr. Greenblatt is a member of the American Institute of Certified Public Accountants; the New York State Society of Certified Public Accountants; the Association of Certified Fraud Examiners; and an associate member of the Association of Certified Anti-Money Laundering Specialists.

Professional Experience

- Conducted a forensic review of the business operations of one shareholder on behalf of another shareholder, and FTI Consulting's client, to ascertain if our client's allegations and suspicions regarding improper management were valid. The work primarily consisted of conducting interviews of current and former employees and executives; performing a detailed forensic review of the internal books and records; and providing assistance to counsel in the conducting of depositions.

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- Served on team as Responsible Officer of a wholesaler of watches in Chapter 11 and conducted the fraud and forensic investigation of management in which it was found that the revenues of the Company had been overstated by approximately 600%. The forensic services included: extensive reviews of the internal books and records; assisting counsel with the conducting of various interviews and depositions; quantification and identification of fraudulent conveyance actions; presenting the results of the investigation to the Bankruptcy Court, US Trustee's office; US Attorney's Office; and FBI, as well as providing testimony at two depositions in related litigations.
- Conducted the forensic accounting investigation of a multinational temporary staffing company on behalf of counsel to the Audit and Finance Committee. The forensic accounting services consisted primarily of: participating in the interviews of current and former employees and executives; performing extensive forensic reviews of the internal books and records; providing assistance to counsel in identifying, understanding and interpreting certain complex accounting issues; traveling to international branches and divisions to further the investigation overseas; and presenting FTI Consulting's findings to the Audit Committee, outside auditors and the SEC and other regulatory authorities.
- Conducted an internal forensic accounting investigation on behalf of the Audit Committee of a public pharmaceutical manufacturer. The investigation included a detailed and thorough review of the accounting treatment of specific transactions and presentations of the overall conclusions to the Audit Committee, Board of Directors, Enforcement Division of the Securities and Exchange Commission, and the Company's independent accountants.
- Assisted counsel to the Financial Institutions Committee in connection with the accounting investigation undertaken by the Audit Committee focusing on alleged improper accounting treatments utilized and potential misuse of corporate funds and resources by Management. The work included: participating in the interviews of current and former employees and executives; providing assistance to counsel for Rule 2004 depositions of executives and directors; and reviewing the Debtors' forensic accountants' workpapers to investigate the accounting and revenue recognition issues related to vendor allowances and other items.
- Conducted a forensic investigation for special counsel to the Audit Committee of a multinational retail company to assist with an internal investigation into the facts and circumstances of a potential restatement of its prior financial results due to misstatements in one of its operating divisions, alleged to be in excess of \$45 million over a three year period. The services included participating in interviews of current/former employees and executives; performing a detailed forensic review of the books and records and annual and quarterly financial statements from 1999 through 2001; providing assistance to special counsel in identifying; understanding and interpreting certain complex accounting issues, including transfer pricing; and presenting FTI Consulting's findings to the Audit Committee and the SEC.
- Issued expert report on behalf of Defendants to analyze whether the Defendants had satisfied all obligations to former shareholders under particular agreements relating to an acquisition
- Issued expert report on behalf of Defendant and Third Party Plaintiff in matter involving overbilling scheme for shipping and transportation services

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- Issued expert report in matrimonial dispute involving the valuation of Marital Assets
- Court-Appointed Trustee for the Marvel Avoidance Litigation Trust In re: Marvel Entertainment Group, Inc. et al in the US District Court for the District of Delaware
- Served on the team selected by the U.S. Attorney offices in the Eastern and Southern Districts of New York and Western Pennsylvania to support the monitoring of the non-prosecution agreements of both The Bank of New York and Mellon Financial Corporation, to monitor and report on the state of the banks' suspicious activity reporting practices and AML procedures.
- Assisted with expert report in litigation involving the results of the forensic investigation performed to analyze company records and historical invoices to quantify an alleged overbilling scheme
- Served as member of team of neutral arbitrators to provide a binding conclusion regarding the appropriateness of a post-acquisition purchase price dispute
- Assisted troubled companies by formulating strategic business plans; developing financial models to prepare forecasts and long-term business plans; planning for liquidation; assisting management with headcount and cost reduction plans; and negotiating restructuring plans

Testimony Experience

- *Securities and Exchange Commission v. Francisco Illarramendi, and Michael Kenwood Capital Management*, United States District Court, District of Connecticut
- *Ellen Zedeck, et al v. Derfner Management, Inc.*, Supreme Court of the State of New York, County of New York

Adjunct Professor, NYU

- Adjunct professor with New York University's School of Continuing & Professional Studies teaching the course *Prevention and Detection of Fraudulent Financial Reporting*, a required course within the Forensic Accounting Program of NYU's Finance, Law and Taxation Program

Publications

- "Inside an Internal Accounting Investigation", (co-authored) published in *The New York Law Journal*, Investigations & Computer Forensics special section, May 29, 2007
- Greenblatt, Carney: *Basics of Accounting for Lawyers: What Every Practising Lawyer Needs to Know 2013*, "Using the Financial Statement Notes" (Practising Law Institute, 2013)
- Greenblatt, Carney: *Basics of Accounting for Lawyers: What Every Practising Lawyer Needs to Know 2012*, "Using the Financial Statement Notes" (Practising Law Institute, 2012)
- Greenblatt, Carney: *Basics of Accounting for Lawyers: What Every Practising Lawyer Needs to Know 2011* (Practising Law Institute, 2011)
- Greenblatt, Carney: *Basics of Accounting for Lawyers: What Every Practising Lawyer Needs to Know 2010* (Practising Law Institute, 2010)
- Greenblatt, Carney: *Basics of Accounting for Lawyers: What Every Practising Lawyer Needs to Know 2009* (Practising Law Institute, 2009)

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Presentations and Speaking Engagements

- “Technology’s Role on Large Internal Accounting Investigations”, presented at the New Jersey Society of CPAs annual Damages Conference, October 25, 2007
- “Forensic Investigations - How to Conduct a Successful Investigation”, Continuing Professional Education focused on internal accounting and forensic investigations conducted on behalf of
- Audit Committee, Boards of Directors and management as a result of Sarbanes Oxley; including a discussion of the role of the forensic accountants and investigation experts; incorporating the components of interview and forensic investigation skills; and the utilization of electronic evidence to efficiently and effectively conduct the investigation, April 22, 2004
- “Anatomy of a Financial Statement Fraud”. This course discussed the common methods to perpetrate a financial statement fraud (e.g. aggressive revenue recognition practices; rebates/allowances; reserves; off balance sheet financing), as well as warning signs and red flags of fraud, and the corporate environment in which fraud typically occurs, July 21, 2004
- “Forensic Accounting Presentation to Goldman Sachs Group, Inc.”, a discussion of forensic accounting, financial transparency, and a summary of some of the critical components of the major frauds in the recent media, March 20, 2003
- “Financial Statement Analysis” course within the Basic Accounting for the General Practitioner program at the Practising Law Institute, focusing on horizontal and vertical analysis; common sizing; industry comparison; ratio and trend analysis; and the common sense factor, October 23, 2002

Employment History

- Prior to its acquisition by FTI Consulting, Mr. Greenblatt joined Kahn Consulting in June of 1998.
- Mr. Greenblatt was a Senior Auditor in the Entertainment, Media and Communications division of Price Waterhouse’s Audit and Business Advisory Services Group from 1994 through May, 1998. At Price Waterhouse, Mr. Greenblatt planned and supervised audits for multinational and middle-market clients in industries including book, magazine and newspaper publishing; manufacturing; high-tech; financial services; and non-profit organizations.

Education and Certifications

- B.S. in accounting from Lehigh University
- Certified Public Accountant, New York & Pennsylvania
- Certified Fraud Examiner
- Certified in Financial Forensics

Memberships

- American Institute of Certified Public Accountants
- New York State Society of Certified Public Accountants
- Association of Certified Fraud Examiners